

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, October 24, 2016

Those Present: Mr. Rick Stup, Chairman
 Mrs. Maggi Hays, Board Member
 Mr. Jesse Pippy, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mrs. Linda Thall, Senior Assistant County Attorney
 Mr. Bob Shrum, Alcoholic Bev. Inspector
 Mr. Harold DeLauter, Alcoholic Bev. Inspector
 Mrs. Penny Bussard, Administrative Specialist V
 Mss. Ashley Sklarew, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:00 AM by Chairman Stup.

1. Board Comments: Mr. Stup announced that the next Alcohol Awareness class provided by the Board's staff at a reduced rate is on November 15, 2016 in Winchester Hall. Mr. Stup stated that the agenda has been revised at the request of the licensees of Village Liquors to go last as their counsel is with another client this morning.
2. Mrs. Dean provided the violation update. Mrs. Dean received a report from the inspector this morning. Four conference hearing letters were mailed out and hand delivered by the inspectors. Those conferences will be held on November 7, 2016. Mr. Stup stated that with the violation hearings today and the conferences in November, all violations will be current.
3. Violations:
 - A. Failure to File Renewal

RE: William Holstein and Susanna Woodward
for the use of Widewater Fred. Hotel Mang.
t/a Hampton Inn-Frederick
5311 Buckeystown Pike
Frederick, Maryland 21703
Class B, On Sales, Beer, Wine & Liquor
Hotel
License #: 11 BL 4051 HT

Mrs. Thall swore in the licensees. Mrs. Thall stated that the charge for this case is that the licensees failed to file their renewal license by March 31, 2016, in violation of Fredrick County Alcoholic Beverages Regulations §3.2(a). The licensees did not file their license renewal until April 1, 2016. Mr. Holstein pleaded guilty to being one day late. Mrs. Dean stated the license application was received on April 1, 2016, resulting in it being one day late. Mr. Holstein stated it was a management oversight. The people involved with management

have been terminated and it will not happen again. Mrs. Susanna Woodward confirmed that she is the local person on the license. Mr. Pippy stated there is no violation history and this is the first renewal the licensee has been through. Mr. Pippy stated that the license had expired. Mrs. Dean stated that she sent a no-contest letter in June of 2016 and the office never heard anything from the licensees and that is why the hearing was scheduled for today. Mrs. Dean stated that the letter was sent to the establishment and to both licensees' home address. Mrs. Woodward stated she did receive hers but didn't think there was anything to answer to. Mr. Holstein stated that he did not receive it. Mrs. Dean stated that there is an option in the no-contest letter for the licensee to accept the fine and it prevents the licensees from coming into a hearing. Mrs. Thall asked that the no contest letter to be marked and made a part of the record. Mrs. Dean stated that the license was issued on January 28, 2015, and there have been no violations.

MOTION: Mrs. Hayes made a motion to assess a \$100 fine.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

B. Outside Entertainment without approval

RE: Robin Harne & Robert Harne
for the use of Rubes Crab Shack, LLC
t/a Rubes Crab Shack
17308 N Seton Avenue
Emmitsburg, Maryland 21727
Class B, On Sale, Beer, Wine & Liquor
License #: 11BL 3208

Mr. Thall swore in the licensees. Mrs. Thall stated the charge for this case is that the licensees failed to obtain approval from the Liquor Board for outside entertainment on August 27, 2016, in violation of the Frederick County Alcoholic Beverages Regulations §6.9. Mrs. Robin Harne pleaded guilty. Mrs. Thall made Inspector Shrum's report a part of the record as Board's exhibit #1. Mrs. Harne stated that she had a special event in June and it was approved and it went well. Mrs. Harne stated that the Blue handbook provides that Special permission to use outside balconies, porches, adjacent sidewalks or yards on the outside of an establishment shall be requested with a diagram showing the seating plan, access points, description of

entertainment and the security and monitoring plan. This plan shall be approved annually. Mrs. Harne stated that she did all of that with the first event. Mrs. Harne stated that she is a little confused, she knows that a special permit is needed for a band. Mrs. Harne stated she just applied for a permit and had to pay for it first, which was \$296.00. Then Mrs. Harne found out that the Liquor Board did not approve the permit and it was turned in within the time frame. Mrs. Harne stated that the blue book it states approved annually. Mrs. Harne continued to state that it was not her intentions on having the entertainment outside but there were electrical issues, so the band used a generator outside. Mrs. Harne also stated that she did not get the final permit from Planning and Zoning. The event that was to be held the next day was cancelled right away. Mrs. Harne has cancelled all bands. Mr. Stup stated that Rubes Crab Shack is approved for entertainment inside the establishment; however, it is not approved for outside entertainment. Mr. Stup stated that the establishment has use of the outdoor seating area, the deck, without entertainment based on the specific area. There have been occasions where approval was given to use the yard area for fundraisers. The section that is being referred to is for inside when the license is renewed each year for the deck only. The Board specifically denied this establish outside entertainment. Mr. Stup referred to the last time Mrs. Harne was in front of the Board and it was for a juke box that was moved to the outdoor area. Mr. Stup stated that as long as Mrs. Harne keeps the entertainment inside, she is approved each year annually during renewals. Mrs. Thall asked Mrs. Harne if she remembers a notice from the Liquor Board about this matter. Mrs. Thall stated she would like to make a part of the record a letter to Mrs. Harne, dated August 19, 2016, signed by Mrs. Harne acknowledging receiving the warning letter, Board's Exhibit #2. Mrs. Thall read from the letter: "You submitted a request on August 17, 2016, to have entertainment on your outside patio on, August 20th, 27th, and 28th. Your request was submitted less than the two week minimum. As licensee it is your responsibility to get and keep verification from the Liquor Board that request has been received. Furthermore, you may not proceed forward with a requested event without first receiving written approval from the Liquor Board." Mrs. Harne stated that she did receive the letter. Mr. Pippy stated that there had been some complaints from neighbors of loud noise. Mrs. Harne stated that the town limits stop at the bridge and she falls into the County. There are 40 neighboring houses and out of the 40, there was one household complaining. Mrs. Harne stated she would not do anything to jeopardize her Liquor License. Mr. Pippy stated that the warning letter that Mrs. Thall just read clearly states that a request must be submitted before doing outside event and the request must be received two weeks before the event. Mrs. Dean stated that the Board didn't deny the event on August 27th; it was Zoning that never gave the approval for the event and that's why the Board didn't approve the event. Mrs. Dean read the prior violation history. The license was issued September 12, 2011. November 5, 2012, there was a violation for failure to file the renewal on time, failing to pick up the renewal and failing to appear at a hearing before the Board. A \$500 fine was paid. On May 17, 2013, there

was a violation for failure to file the renewal on time. A \$650 fine was paid. On June 13, 2014, there was a violation for failure to pick up renewal on time and a \$50 fine was paid. On October 24, 2014, there was a conference about noise complaints.

MOTION: Mr. Stup made a motion to assess a \$400 fine for a pattern of non-compliance, and an administrative fee for \$100. Total amount due is \$500.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

C. Failure to pick up renewal license by April 30, 2016

RE: Michael Mercer, Jason Miller
and Christopher Parsell
for the use of The Wine Kitchen, LLC
t/a The Wine Kitchen
50 Carroll Creek Way, Suite 140
Frederick, Maryland 21701
Class B, On Sale, Beer, Wine & Liquor
License #11BL 3420

Mrs. Thall swore in the licensees. Mrs. Thall stated that the charge for this case is that the licensees failed to pick up their renewal license by April 30, 2016, in violation of Frederick County Alcoholic Beverages Regulations §3.2(d). The license was not picked up until May 2, 2016. Mrs. Dean noted for the record that the Board excused Christopher Parsell from being at this meeting. The licensees pleaded guilty to the charge. Mrs. Dean stated that the license was picked up on May 2, 2016, two days late. The licensee stated that it was a simple oversight and a miscommunication within the organization. Mrs. Hays stated there is a history of not picking up the license on time and asked how it could be a simple oversight annually. The licensee stated that it was not intended and that it was an oversight, maybe not a simple oversight. Mr. Pippy stated the original license was issued in 2011, and in 2012 the license was picked up late and a fine was paid. In 2013, the license was picked up late again and a fine was paid. In 2015, the license was picked up late and a fine was paid again. Mr. Pippy pointed out the license was picked up late every year except for in 2014. In 2014 there was another violation. The licensees have never changed. The licensee stated that it has

happened in the past because it is when the restaurant is usually closed. The licensee stated that they did not serve alcohol on that Sunday and donated a portion of the proceeds to Mothers Against Drunk Driving. Mrs. Dean stated that the inspectors go out on the last day of renewal for anyone who did not pick up and they are advised that at midnight they no longer have a license to sell alcohol and they cannot sell alcohol until the license has been picked up and displayed. Inspector Shrum was sworn in by Mrs. Thall. Inspector Shrum stated that he went to the establishment and confirmed the licensee's statement. They did stop alcohol sales for the day and donated proceeds to Mothers Against Drunk Driving and the licensees complied with the request. Mr. Stup stated that he was concerned with the pattern of non-compliance. Mr. Stup stated it shows total disregard for the authority of the Board. Mrs. Hays stated there were several other violations for other things. On June 27, 2014, failure to notify the Board of changes to stock and on September 24, 2012, there was an employee consuming alcohol behind the bar. Mrs. Dean stated that a no contest letter was sent and a reply did not come back so a hearing was scheduled.

MOTION: Mr. Stup made a motion to assess a \$1,600 fine as this is the fourth time the establishment has been found guilty for this charge and an administrative fee for \$100. Total amount due is \$1,700.

SECOND: There was no second

MOTION: Mr. Pippy made a motion of a \$900 fine and an administrative fee for \$100. The total amount due is \$1,000.

SECOND: Mr. Stup seconded the motion

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Nay
Mr. Pippy-Aye

The vote was: **Aye-2, Nays-1**
(Motion Passed)

See Reconsideration vote below

4. New Licenses

A. Decision

Re: Amalia Chavarria and Romeo Napoleon Chavarria
for the use of Manna Bakery, LLC
t/a Manna Bakery
1100 W. Patrick Street, Unit M
Frederick, MD 21703
Class B, On Sale, Beer only

Mrs. Dean swore in the applicants. The pending items for this case are the Final Zoning approval, Fire Marshal, Health Department, alcohol awareness person, trader's license and the inspector's report. Mr. Chavarria stated that the Health Department identified some items that needed to be fixed. Mr. Chavarria stated he has not called the Fire Marshal yet. Zoning has not been called either. Alcohol awareness has not been completed. The trader's license is pending as Mr. Chavarria was not aware of it. Mr. Chavarria confirmed that his business is currently open. Inspector Shrum stated that he went the establishment on October 22, 2016, and the licensees meet all the requirements of the Liquor Board. Mr. Chavarria states that he plans to get everything done in the next couple of weeks. Mr. Chavarria confirmed that the establishment's Sunday hours will 8:00am and no alcohol sales before 11:00am. Both licensees will work in the business full time. Mr. Stup asked for a seating plan from Mr. Chavarria. Mr. Chavarria stated they will have radio and will complete the Entertainment Request form. Mr. Chavarria stated he will not have outdoor seating. Mr. Stup explained the ABLE training to the applicants. There was no public comment.

MOTION: Mr. Pippy made a motion for a conditional approval until January 9, 2017.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

B. Decision

Re: Elmer Wachter, Cathy Wachter and
John Fleischmann
For the use of Myersville Service, LLC
t/a Myersville Exxon
9629 Myersville Road
Myersville, MD 21773
Class A, Off Sale, Beer & Light Wine
Sunday Permit

Mrs. Dean swore in the applicants. The pending item is the inspector's report. Inspector DeLauter stated he was at the establishment on October 20, 2016, and the applicants meet all of the requirements. Mr. Elmer Wachter stated that he has 10 of 14 employees already alcohol awareness

trained. The other four employees would like to attend the November 1, 2016 training class that is provided by the Board. Mr. Wachter wants to install a walk-in cooler that extends the back of the establishment and has received the bids. He will submit the plans to the Board. This will not be for public access but for storage. Mr. Wachter stated that they are open 24 hours and are aware of the selling hours on Sundays. There was no public comment.

MOTION: Mrs. Hayes made a motion to grant the license.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

C. Decision

Re: Charles Staley
For the use of JB Spirits and Eats, LLC
t/a JB Spirits and Eats
308 Main Street
Myersville, MD 21773
Class A, Off Sale, Beer, Wine & Liquor
Sunday Permit

Mrs. Dean swore in the applicant. The pending items for this application are the Occupancy Permit, Fire Marshal's approval, Retail Sales Tax license, Trader's License, and the Inspector's report. Mrs. Dean noted that there was one letter in opposition received was received on Friday. Mr. Charles Staley stated that his establishment is still under construction. He has a hood that has to be installed. It will take approximately 30 days to install and have it inspected. There are other plumbing projects that need to be completed but he is making progress. The Health Department inspection will occur once the hood is installed. Mr. Staley stated he plans to be finished with everything in 60 days. Inspector DeLauter stated he was at the establishment on Thursday, October 20, 2016, and the applicant's operations will meet all the requirements. Mrs. Dean added the letter of opposition into the record as Exhibit 1 and read the letter. Mr. Stup stated that all the issues in the letter deal with zoning issues and approvals. Mr. Stup stated that a license cannot be issued without zoning approval. Mr. Staley stated it is a carry-out food business only as he has outgrown his current establishment and moving to Myersville he will continue with carry-out seafood and food. Mr. Pippy stated that as part of the application there must be 10 signatures of surrounding neighbors (property owners and

registered voters) that are verified, and obviously Mr. Staley has obtained those signatures. Mr. Pippy also pointed out the State Legislature voted to allow alcohol in this district and Mr. Staley is the only one who has applied. Mr. Staley stated that his organization likes to help in the community and stated this is a great convenience for the community of Myersville.

MOTION: Mr. Pippy made a motion for a conditional approval until January 9, 2017.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

5. Transfers
A. Decision

Re: Michael Cook & Cybele Cook
for the use of Dempsey's Grille & Caterers, LLC
t/a Dempsey's Grille & Caterers
116 W. Main Street
Middletown, MD 21769
**Upgrade to a Class B, On Sale,
Beer & Light Wine License**

Mrs. Dean swore in the licensees. The pending items for this application are Fire Marshal approval and the Inspector's Report. Mrs. Dean stated that the Fire Marshal has been emailed but he has not responded. Mr. Cook stated that the Fire Marshal has not been out. Mr. Cook didn't realize he needed Fire Marshal approval since this was an ongoing business and they were only changing from selling Beer to hopefully selling Beer and Light Wine. Inspector DeLauter stated that he has been to the establishment just about every month for several years and he has never had a problem at the establishment and they have never had a violation. Mr. Stup stated that a seating plan would be helpful. There is no outdoor seating. An Entertainment application will need to be completed for the radio. Mr. Stup stated hours for Sunday are listed as 7am-2pm and it's also listed no alcohol sales until 11am. Mr. Cook stated that is correct. Mr. Pippy stated that when you do a transfer it is treated as it's a new application, and that is why the Fire Marshal and other inspections have to occur.

MOTION: Mr. Pippy made a motion for a conditional approval until January 9, 2017.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

THE BOARD RESCESSED AT 10:38AM AND RESUMED THE PUBLIC HEARING
AT 10:45AM

6. Violations (continued):

A. Bottles not from Wholesaler, Tampering

RE: Dawal Limbachia and Rosmy Ortiz
For the use of Saini Foods & Beverages, LLC
t/a Village Liquors
101 Silo Hill Road, Suite 1
Emmitsburg, MD 21727
Class A, Off Sale, Beer, Wine & Liquor
Sunday Permit & Wine Tasting
License #11 AL 1098 SUWT

Mrs. Thall swore in the licensees and others testifying to the case. Mrs. Thall read the three charges. The first charge is that on October 15, 2015, at approximately 3:35pm, the licensees had on their premises alcoholic beverages that were not purchased from a licensed manufacturer or wholesaler, private bulk sale permit holder or nonresident winery permit holder in violation of the Alcoholic Beverages Article of the Annotated Code of Maryland, §6-311(b) (1) and §6.18 of the Frederick County Alcoholic Beverages Regulations. The second charge is that on October 15, 2015, at approximately 3:35pm, the licensees kept on their premises alcoholic beverages that were not purchased from a licensed manufacturer or wholesaler, private bulk sale permit holder or nonresident winery permit holder in violation of the Alcoholic Beverages Article of the Annotated Code of Maryland, §6-311(b) (3) and §6.18 of the Frederick County Alcoholic Beverages Regulations. The third charge is that on October 30, 2015, at approximately 3:00pm, Comptroller's Agent Neil Benson was at the establishment to confiscate the bottles of alcohol that were not purchased from a wholesaler. The confiscated bottles were subsequently found to have been tampered with in violation of the Alcoholic Beverages Article of the Annotated

Code of Maryland, §6-313(a) and §6.21 of the Frederick County Alcoholic Beverages Regulations. The licensees pleaded not guilty.

Mrs. Thall questioned Inspector DeLauter first. Inspector DeLauter stated that he conducted an inspection on October 15, 2015, at the establishment known as Village Liquors located at 101 Silo Hill Road, Emmitsburg, Maryland at approximately 3:33pm. Inspector DeLauter stated that he inspected invoices, licenses, work schedules, trader's license, Maryland Tax & Use form and the rules and regulation. Inspector DeLauter stated when he walked in he noticed the large bottles of alcohol, which he knows is illegal in the State of Maryland. Inspector DeLauter took pictures of the bottles. Inspector DeLauter spoke to Mr. Dawal Limbachia and asked for the invoices, which he replied he didn't have any because they were Fred's (Pradeep Saini). Mrs. Thall stated for the record there are five bottles on the table on the side of the hearing room. Inspector DeLauter confirmed those are the bottles he saw in the establishment. Inspector DeLauter stated these bottles caught his attention because of their large size. Inspector DeLauter stated there was a bottle of Jack Daniels, which was 3 Liters in size and there was another bottle that was 4.5 Liters. Inspector DeLauter stated the legal size in the State of Maryland is 1.75 Liters. Inspector DeLauter stated all the bottles on the side of the room are all larger than 1.75 Liters. Inspector DeLauter stated from the appearance as he recalled there was no tampering with the bottle, it appeared to be a normal bottle that may be for sale if it were legal. Inspector DeLauter stated the large bottles had not been opened. Inspector DeLauter had prepared a report on October 22, 2015. Mrs. Thall made Inspector DeLauter's report as part of the record along with the photographs he has taken as Board's Exhibit #1. Inspector DeLauter stated that the licensees had liquor bottles in their establishment that were not purchased legally in the State of Maryland.

Mr. Pippy stated that the pictures Inspector DeLauter took show six bottles and the sixth bottle has a for sale sticker of \$149.99, Mr. Pippy continued by asking Inspector DeLauter where it was. Inspector DeLauter stated it was in with these group of bottles and it wasn't the size of the larger bottles but of the legal size of 1.75 liters. Inspector DeLauter stated he did ask for receipts for the large bottles and the response he received was that they did not have the invoices for those bottles and they were Fred's personal bottles. Mr. Chris May, attorney for the establishment asked Inspector DeLauter whether the large bottles were on a shelf labeled "display only", Inspector DeLauter confirmed that they were. Mr. May asked if any of the five large bottles had a retail sticker, Inspector DeLauter confirmed that they did not.

The next witness was Mrs. Dean. Mrs. Dean stated that on October 15, 2015, she spoke to Inspector DeLauter who said he found very large bottles of liquor in the establishment. He asked the clerk, who told him there were no invoices for the

bottles. Mrs. Dean stated she called counsel to see if Inspector DeLauter should confiscate the bottles, which she suggested not to do. Mrs. Dean then called Inspector DeLauter and suggested to him to take pictures of the bottles and if possible the regular (legal) size of to be able to show perspective. Mrs. Dean stated she received a phone call five minutes later from Mrs. Gopi Saini, who is the wife of the owner. Mrs. Saini stated to Mrs. Dean that Inspector DeLauter was at the establishment. Mrs. Saini stated the large bottles did not have receipts. Mrs. Saini stated the bottles came from their private home and they were not for sale but for display only. Mrs. Dean stated Mrs. Saini called back after the phone disconnected, and she called right back. Mrs. Dean asked Mrs. Saini if the bottles were sealed and had alcohol in them and Mrs. Saini said yes. Mrs. Dean stated she then advised Mrs. Saini that the law states that they cannot have any alcohol beverages on the premises except what was purchased from a wholesaler that she has a receipt for. Mrs. Saini then told Mrs. Dean she didn't know that. Mrs. Dean stated she told Mrs. Saini this law has been in the books forever. After being asked again, Mrs. Dean stated the bottles could not be in the establishment at all, not even for display only, and she must have invoices for all alcohol. Mrs. Saini then told Mrs. Dean she would have the large alcohol bottles taken out. Mrs. Dean stated she called customer services at Reliable Churchill on October 21, 2015, and they informed Mrs. Dean that they don't even sell 3 Liter or 4.5 Liter bottles in the State of Maryland. They did tell Mrs. Dean that there were some bottles of 12 year old scotch that were sold in a 1.75 Liter bottle. Mr. Pippy asked Mrs. Dean if she instructed Mrs. Saini that she was required to keep the bottles until the inspector could come back and get them, Mrs. Dean stated she did not. Mrs. Thall made Mrs. Dean's report of October 15, 2015, a part of the record as Board's Exhibit #2.

The next witness was the Maryland Comptroller's Agent Neil Benson. Agent Benson stated that he was asked to attend a meeting with representatives of the Liquor Board on October 22, 2015. Agent Benson was originally contacted by Auditor/Investigator Lewis Berman with the Maryland Comptroller's Office, who advised Agent Benson that he had received a call from Mrs. Dean requested the meeting regarding Village Liquors. Agent Benson was told that the reason for the meeting was the large bottles that were found in the store. Agent Benson stated that he attended the meeting on October 22, 2015. Mrs. Dean, Mrs. Bussard, Inspector DeLauter, Investigator Berman and Agent Benson were at the meeting. Agent Benson stated that at this meeting he was told that Inspector DeLauter had conducted an inspection at the store and found the large bottles on display that are illegal in the State of Maryland. Agent Benson was provided photographs that Inspector DeLauter had taken at the time of the inspection. Mrs. Dean had also informed Agent Benson of her conversation with Reliable Churchill and her conversation with Mrs. Saini on the phone and that Mrs. Saini admitted there was alcohol in the bottles at that time. After the meeting with the Liquor Board staff, Inspector Berman and Agent Benson went directly to the establishment. When Agent Benson arrived at the store, he informed the establishment why they were there. They spoke to Mr. Limbachia and asked for

the large bottles, as they were not on display. Mr. Limbachia said the bottles had been removed. Agent Benson stated Mr. Pradeep Saini came in at that point and he told Mr. Saini that he needed to see the large bottles for inspection.

On October 30, 2015, at approximately 3:00pm. Agent Benson received a call from the establishment and was told that they had the bottles in the store. Agent Benson responded to the establishment and spoke to Mr. Limbachia, who produced two bottles. One was the Bacardi bottle, the other was a Dewars bottle. Agent Benson noticed that both bottles have twist type caps and the breaks had been broken in the caps. Agent Benson also noticed a whitish residue on both of the bottles and caps. Agent Benson then asked why the bottles had been opened and Mr. Limbachia stated the bottles had not been opened. Agent Benson then seized the bottles and gave Mr. Limabachia a receipt for confiscation. Agent Benson also told Mr. Limabachia that he needed all bottles returned to the store. Agent Benson then took the bottles to the motor fuel lab in Jessup for analysis. Agent Benson took pictures of the large bottles and then gave the bottles to the Chemist in charge of the lab, Mr. Ketan Vithlani. Agent Benson stated he received results on the two bottles and they came back as water. Mr. Vithlani informed Agent Benson that he smelled an odor in the bottle of Dewars that he could identify the as the smell of honey, which could account for the color and the smell. When Mr. Vithlani was done with the analysis, Agent Benson took custody of the two bottles and transported them to Annapolis and held the bottles in the evidence room.

Agent Benson waited for a call from the establishment to get the other bottles. On November 3, 2015, Agent Benson decided to go by the establishment and advise them again that he needed the other large bottles. When Agent Benson walked in the store, he observed that behind the counter sitting on the floor were three other large bottles, which he recognized from Inspector DeLauter's pictures. Agent Benson stated the other three large bottles were Vodka, Jack Daniels and Black Label. Agent Benson noticed a small black dot on the top of the caps. Those three bottles had a plastic wrap on them unlike the other two large bottles. Agent Benson found all the plastic wraps to be loose. Agent Benson did not make any comment about the black dots and gave Mr. Limabachia a receipt of confiscation for the three bottles. Agent Benson put the bottles in his car and then drove a mile down the road, where he then pulled over on the shoulder. Agent Benson ran his finger over the top of the caps and his opinion at that point was that there was approximately a 1/4 inch hole drilled on each cap of the bottles. Agent Benson left the bottles as they were and took them to the Jessup Lab. He took pictures of the large bottles and then turned the large bottles over to the Chemist, Mr. Vithlani, to perform an analysis on those bottles. Agent Benson stated that the plastic wrap is supposed to go 1/16 of an inch on to the cap but the cap is actually clear of the wrap. It goes around the edge of the cap and down the bottle neck; however, these bottles had a loose wrap sthat shouldn't be on new bottles.

In the presence of Mr. Vithlani, Agent Benson started to peel off the black dot and immediately saw a hole drilled into the bottle cap. This was the case for all three bottles. Agent Benson stated that this is not typical for bottles of alcohol. The volumes that he observed when he got the large bottles and the volume that is shown in Inspector DeLauter's photos appeared to be lower and the volumes did not match as far as how high the volume was on the neck of the bottle. Agent Benson stated that on Whiskeys it's normally a translucent amber color and you can see through it. All of these bottles appear to be darker; when you place your hand behind the bottle, you cannot see your hand. The bottle of Dewars appeared to be cloudy looking. Agent Benson shared his initial observations with the Chemist, Mr. Vithlani. Agent Benson stated that he received the analysis of the three bottles and they all came back as water. Agent Benson then took the large bottles back into his possession. Agent Benson made reports of his visits to the establishment and he provided a copy to the Liquor Board along with copies of his photographs. Mrs. Thall added Agent Benson's reports and photographs into the record as Board's Exhibit #3.

Mr. Pippy asked Agent Benson whether, at the time when he requested the bottles from Mr. Saini, he told them specifically that the bottles couldn't be tampered with. Agent Benson stated that he didn't mention that they could be tampered with but that he needed to see all five bottles in the store. Mr. Pippy asked Agent Benson in his opinion, did the appearances of the large bottles change in the two weeks from when Inspector DeLauter photographed the large bottles and the time Agent Benson picked up the bottles. Agent Benson's opinion was that they did change, based on the color, volume, loose wrapping, drilled holes, and seals being broken and sealed shut. Mr. May asked Agent Benson if any of the bottles tested positive for alcohol. Agent Benson replied no. Mr. May asked Agent Benson if he saw the bottles before he got them from the establishment. Agent Benson stated that he only saw them in the photographs. Mr. May asked Agent Benson if he could see from the photographs whether there was a sticker on the top. Agent Benson did not believe that he could see it from the angle of the photographs. Mr. May asked Agent Benson if he is familiar with dummy bottles. Agent Benson is somewhat familiar with the dummy bottles that are used in stores for display. Mr. May asked Agent Benson if he knows how the dummy bottles are filled. Agent Benson stated he doesn't have the knowledge on how the bottles are filled but he knows most of those are plastic and they don't have liquid in them, they just appear to. Mr. May asked Agent Benson if he is aware that dummy bottles can be purchased online and in flea markets. Agent Benson stated he isn't aware of it, but he is sure that you can.

The next witness was the lab chief, Mr. Vithlani. Mr. Vithlani received training on how to analyze alcohol content from his predecessor and he also received training from distilleries and their labs. Mr. Vithlani has worked at this lab since

1998. Mr. Vithlani received five large bottles (Bacardi Superior White Rum 300 Centiliters, Dewars Blended Scotch Whiskey 4.5 Liters, Johnny Walker Black Label Blended Scotch Whiskey 4.5 Liters, Ketel One Vodka 4.5 Liters, and Jack Daniels Tennessee Whiskey 3 Liters) from Agent Benson and he examined each of those bottles. The first two bottles were received on November 2, 2015, the Bacardi and Dewars. He analyzed the samples and there was no alcohol detected in those two bottles. It was difficult to open the cap because the cap was glued to the bottle. Channel lock pliers were used to open the cap. Once the cap was opened, residual glue particles were visible floating on top of the liquid. Mr. Vithlani noted this for both bottles received on November 2, 2015. Mr. Vithlani stated this is not typical. Mr. Vithlani has never seen these size bottles before. He has never seen caps glued to the bottle before. Mr. Vithlani stated that based on his experience, he thought the bottles were refilled and tried to be secured with glue so the bottles would appear to be sealed. With the hole drilled on top of the caps his conclusions were that the bottles had been refilled.

Mr. Vithlani stated that the other three bottles, Johnny Walker, Ketel One and Jack Daniels were received on November 4, 2015, and an analysis was done on the same day. All three bottles were negative for alcohol. The three bottles each had a drilled hole covered with a black sticker. Mr. Vithlani cannot tell when the bottles were refilled. Mr. Vithlani prepared a report regarding his analysis and provided a copy of the report to Agent Benson, who gave a copy to the Liquor Board. Mrs. Thall marked Mr. Vithlani's report as an exhibit in the record, Board's Exhibit #4. Mr. Vithlani stated that when he receives any samples, he typically tries to compare it with the label. If the label states it's 40 or 80 proof, he notes it on the report and then notes their findings. Mr. Stup stated that just by looking at the photographs Inspector DeLauter took, at least two of the bottles clearly are not the same liquid. Mr. May asked Mr. Vithlani how often he tests alcohol bottles. Mr. Vithlani replied that it depends on how frequently he receives samples, if he had to guess, maybe three times month. There could be five bottles for an incident or there could be one bottle an incident, it really depends on what is confiscated. Mr. Vithlani sometimes receives requests from the counties. Mr. May asked Mr. Vithlani how often bottles test negative for alcohol. Mr. Vithlani replied not very often, it is very rare. Mr. May asked Mr. Vithlani if there was even a trace of alcohol would it show up in the test. Mr. Vithlani replied yes. Mrs. Thall asked to have the bottles marked as evidence and made a part of the record.

Mr. May's first witness was Mr. Pradeep Saini. Mr. Saini stated that he is known locally by his customers as Freddie or Fred. Mr. Saini is the owner of the establishment. For the initial four years, he worked at the establishment open to close, seven days a week to establish the business and at that point in time he was the only contact for all of the vendors. After the fifth year since he expanded to another store, Mr. Saini stepped back to a part time position and was only there in the evenings and busy times, resulting in him getting his wife and other

family members involved. At that point in time, Mr. Saini supervised the purchases and liquor purchases of the store along with recommendations of customers and the manager. Mr. Saini purchases liquor from registered vendors, Breakthrough, National, Southern Wine & Spirits, Wantz, and Premium and smaller vendors like Chesapeake. Everything he purchases comes out of the Beverage Journal. Mr. May asked Mr. Saini whether he or anyone associated with Village Liquors ever purchases liquor from anyone other than a distributor. Mr. Saini stated that he never has, unless it was a winery that is local in Frederick County, which is perfectly ok. Mr. Saini is familiar with the bottles that were marked as evidence. Mr. Saini got these bottles at a flea market in New York. Mr. Saini has observed these bottles numerous times. Being in the liquor business they catch your eye and he did procure them over a period of time. Mr. May showed Mr. Saini a picture and Mr. Saini stated that it was the street and the market where the merchandise is available along with lots of other merchandise like neon lights, flags, banners and other barware and liquor ware. Mr. Saini stated that there was no liquor in them when he purchased them. They are sold for \$20 or \$25 and there is no way that you can get them with liquor in them. They are dummy bottles and from his knowledge and experience these kind of sizes are not manufactured by the distilleries. They are used just for props and display. You can also purchase these items on ebay and amazon and there are hundreds available now. Most of the bottles are filled, some are empty, and they are available as props. Mr. May stated that he had four pages of ebay printouts and asked Mr. Saini to identify these pages. Mr. Saini is aware that they are very similar or the same bottles and also a lot others that he doesn't have. There are a wide range of these bottles in various sizes available to be used as props.

Mr. Saini purchased the dummy bottles over a period of time. They were not purchased all at once. The timeframe could have been from 2012 through 2014 that they were procured. They were not purchased for the store. They were purchased for Mr. Saini's basement, which at that time he was thinking about putting in a bar, a man cave kind of thing. Mr. Saini was trying to get different signage because he saw it on DIY on television and wanted to build his basement like that. At the time he had teenage children and Mrs. Saini objected to having them in the house even as display and Mr. Saini had to take the bar out as Mrs. Saini didn't want any alcohol. As they do not consume alcohol, there was no need for a bar. Mr. Saini also started training small children in karate in the basement, so they vacated the basement at that time. Mr. Saini didn't know what to do with the dummy bottles and thought it would be a good prop at Christmas time to keep them on a high display area, so it would catch the eye. His thought was to use it as a prop or promotional material. Mr. Saini stated that there was no intent to mislead the customers that they were for sale. There was no intention to sell the bottles or make any money from them. The bottles were kept 6 1/2 to 7 feet above the floor, which is not accessible to most customers and they cannot touch it. There was a very visible sign that stated "Do Not Touch, Dummy Bottles or Fake Bottles". All customers and employees knew the

bottles were not for sale. Mr. May showed Mr. Saini a picture which looked like it was from a security camera and asked him to identify the picture. Mr. Saini stated that it was the store picture from 2014. The pictures were taken because he was changing the overhead ceiling lights and the pictures were taken to provide to the vendors. Mr. May showed a picture dated August 9, 2014 and asked Mr. Saini if it was correct. Mr. Saini stated that it was correct. Mr. May asked if the oversize bottles were on the shelf with a sign "Do Not Touch, Not For Sale, For Display Only". Mr. Saini stated that is correct. When one enters the store this shelf is the first shelf that is viewed, beside the counter. Mr. May asked Mr. Saini whether to his knowledge there had ever been any alcohol in those bottles. Mr. Saini stated no, although he was physically aware of the liquid inside, but he was very clear that being available for sale on the street of New York, eBay and Amazon that there was no liquid and for the amount at which these bottles sell for (\$20-\$25) there is no way there is alcohol in the bottles. He sells much less alcohol for much more money. Mr. May asked Mr. Saini whether at any time he altered any of the five bottles. Mr. Saini replied no sir.

Investigator Berman asked to make a few clarifications for the Board. The reason the bottles are illegal is not because of their size, it's because this size is not for sale through a wholesaler so they cannot be bought legally. Second, they are not dummy bottles. Each bottle has a legitimate Federal COLA label (certificate of Label Approval). These legitimate bottles were sold with alcohol at some point, somewhere, somehow. Investigator Berman stated that a dummy bottle is generally a plastic bottle and they are painted on the inside to look filled or something like that. Investigator Berman stated that these bottles are legally for sale as it has been pointed out; however, they are not allowed in a retail store. Investigator Berman stated that dummy bottles have a marking on the label so it could not be confused with a bona fide bottle.

Mr. Stup asked Inspector DeLauter if he observed the tops of the bottles during his initial inspection. Inspector DeLauter stated that he did not have any indication or reason to believe that those bottles had been tampered with. Inspector DeLauter stated that he has photographs and there is no indication that the bottles had been tampered with. Agent Benson stated that he looked at the pictures that Inspector DeLauter provided and it is very clear on the Barcardi, which has a twist top, that the tabs are lined up, and there is no glue stuck to the bottle like it was when he had recovered it from the store. You can't see the top of the caps on the bottles that have the plastic wraps but you could with the bottles with twist tops and you could see the tabs are lined up and hadn't been tampered with. Agent Benson stated that the bottles had been changed from the time Inspector DeLauter photographed the bottles until he recovered them from the establishment. Agent Benson stated that he has a history with Mr. Saini and he always has excuses for everything that has occurred. Mr. May objected; Mr. Stup noted the objection.

Mr. Pippy asked Mr. Saini if, to his knowledge, he or any of his staff or agents at the establishment changed or modified any of the bottles between October 15, 2015 and October 22, 2015 or October 30, 2015 when the Comptroller's agent picked up the bottles? Mr. Saini stated that he was personally involved in purchasing the bottles and after that he has not touched the bottles other than to display them and to keep them. Mr. Saini stated that between the dates Mr. Pippy mentioned neither he nor his employees touched the bottles. They were removed from the establishment because that was the instruction provided to the manager from Inspector DeLauter. Mr. Limabachia removed the bottles. Mr. Pippy asked Mr. Saini to look at the color picture of the Macallan bottle and asked whether he bought that bottle from a distributor? Mr. Saini stated that it was purchased wholesale from a vendor and it was purchased from Breakthrough (the old Reliable Churchill). Mr. Saini doesn't have receipts for it. Mr. Saini stated that it is more than two years old and he is only supposed to keep receipts for two years, but with a simple call to Breakthrough he can track it down. Mr. Saini stated that the cap is not broken and that no bottles in his establishment are broken. Mr. Saini confirmed that the gold wrap around the neck and cap of the bottle comes like that from the manufacturer. Mr. Pippy stated that the wrap looks like it has a tear. Mr. Limabachia stated that when he opens the boxes he uses a knife and it's not all the way open, it is just a little bit. Mr. Pippy asked whether he would at least agree that it's a bottle that has a for sale sticker and that the seal on top is torn for whatever reason. Mr. Limbachia agreed with Mr. Pippy. Mr. Pippy stated also in the picture there is a security camera above the bottles. Mr. Limbachia stated that it is actually a strobe light.

Mr. Pippy asked Mrs. Dean and Mrs. Thall if Class A licenses are allowed to keep dummy bottles filled with honey liquid on their premises alongside real bottles. Mrs. Dean stated that licensees can only keep on the premises those bottles that were purchased through a wholesaler - nothing else. Mr. Pippy stated that they are not allowed to go to a dollar store and purchase a clearly marked dummy bottle filled with water, which has never been tampered with, and sit it on a display next to bottles of alcohol for sale. Mrs. Dean stated that is correct. Mr. Pippy asked Mr. Saini if he was aware of that. Mr. Saini stated he was not aware. In his mind there were just displays. Mr. Pippy noted that Mrs. Saini spoke to the Liquor Board Administrator, Kathy Vahle Dean, on October 15 and she stated that Mrs. Saini thought or admitted that those bottles had alcohol in them and they were sealed, and asked if that was correct. Mrs. Saini stated that she agreed that they were alcohol bottles because that is what they look like but she is not aware that there is alcohol in it or not. Mr. Pippy asked if she was under the impression at the time that alcohol was in the bottles. Mrs. Saini stated there was no alcohol in it because they had kept it for display. Mrs. Saini stated she agreed that they were alcohol bottles but she was aware that there was no alcohol in it. Mr. Pippy asked if Mrs. Saini felt that was an inaccurate statement that she didn't say there was alcohol in the bottles. Mrs. Saini stated that it was a misunderstanding and she had presumed that it was an alcohol bottle that said Jack Daniels or Black Label on top and that is what she meant. Mrs. Saini stated

it may be a misunderstanding between her and Mrs. Dean, but she did not mean to say there was alcohol in the bottles.

Mr. Pippy asked Mr. Limbachia upon Mr. Saini's instruction to remove the bottles on October 15, 2015, where were the bottles taken, what did you do to them, and where did they sit until the time they were brought back in to the store. Mr. Limbachia stated Inspector DeLauter instructed him that you cannot keep oversized bottles in the store. Mr. Limbachia stated he immediately took the bottles off the shelf and put them in the trunk of his car. After closing, he took the bottles home and put them in his basement. A few days later, Agent Benson came in to the establishment and he instructed him to bring the bottles in for inspection. Mr. Limbachia got the bottles and then called Agent Benson. Mr. Limbachia only brought two bottles because he drives a small car and he has to lay them down in the car. Agent Benson stated that he wanted to see all of the bottles and the next day he brought in the other three bottles. Mr. Pippy reminded Mr. Limbachia that he was under oath, and asked if in any way did he modify, change, drain, drill holes, cut caps, open containers or do anything other than transport the bottles between October 15, 2015 and October 22, 2015 and October 30, 2015. Mr. Limbachia stated that no, he did not. Mrs. Hays asked when the bottles were purchased did they have the holes drilled in them. Mr. Saini stated that he didn't notice any such thing and he was very sure they were dummy bottles without any alcohol in them. Mrs. Hays asked why the bottles look different than they do in the photograph, because the bottles in the photograph do not look like the bottles. Mr. Stup stated the liquid in the Jack Daniels and Johnny Walker look darker than what the pictures show. Mr. Saini stated he is not an expert but assumes that when they are 7 feet high the bottles are close to strobe lights and focus lights, then pictures and other things look very different and the Christmas decorations are all around the bottles. Mr. Saini stated that at that time they had lights and foil, which might have something to do with it.

Mr. Stup requested that the bottles of Jack Daniels and the Johnny Walker be brought up to the Board. Mr. Pippy asked how much volume is taken out of the bottles for testing purposes. Mr. Vithlani stated that he uses 5 milliliters, but he takes 15 - 20 milliliters because they try to wash the glassware with the same sample so there is no diluting or affecting the results. Mr. Vithlani stated that in this case, he used 10 milliliters for the Scotch Whiskey and for the other four bottles he used 5 milliliters. Mr. Vithlani, from professional experience, if he decides that the first sample is negative he then tries to not dilute and add more samples to get an accurate result. In general, 5 milliliters is used. Mr. Pippy stated that on the Dewars bottle, on Harold's photograph, the volume line is above the metal strap. Mr. Pippy asked when Mr. Vithlani tested the bottle did he take enough of the fluid to make it go below the metal strap? Mr. Vithlani stated he didn't at all and for that particular bottle he used 5 milliliters and, as he explained before, he only takes 5 to 15 milliliters so the fluid would not go

down that much. Mr. Pippy asked if 15 milliliters were added back into the bottle, would the volume go above the metal strap? Mr. Vithlani stated that if you added 15 milliliters he thinks it might come to the metal strap. Mr. Vithlani also stated that, in his opinion on the Johnny Walker, it smelled like honey, like someone tampered with it so he would smell the honey. Investigator Berman stated that they are legitimate bottles as opposed to plastic display bottles. No one would have sold it for \$15 before they took the alcohol out of it. He can't imagine that someone would drill a hole in the top of it and pour the liquid out. They probably unsealed it, drank it and put it back and then tried to sell it. Investigator Berman states that is where he has trouble with the bottles.

Mr. Pippy asked Mrs. Dean and Mrs. Thall about the third violation charge for tampering with bottles. Is it correct that the licensee would have to tamper with the bottle? Mrs. Thall read §6.21 of the Frederick County Alcoholic Beverages Regulations and stated that if the bottles had been tampered with prior to the time they came under the control of the licensees or their agents, it would not be a violation, but they are responsible for what would have happened to it once they had possession of the bottles. Mr. Pippy asked what if someone before having a liquor license tampered with a bottle 10 years ago, they drank it and then they tampered with it, would that fall under this as well? Mrs. Thall stated it depends on whether it was in the establishment. Mr. Stup stated that the bottle should be in the establishment to begin with. Mr. Stup stated that the issue is whether the bottles had been tampered with from the time that Inspector DeLauter saw them and Agent Benson saw them.

Mrs. Thall referred to exhibit #4, which shows the bottles and the signs. The sign states, "Do Not Touch, Not for Sale, For Display Only". Mrs. Thall asked if there was a separate sign that identified them as dummy bottles because Mrs. Thall thought his testimony was that there was a sign there with the bottles saying they were dummy bottles. Mr. Saini stated that there was not a sign that said dummy bottle, but it's a word he is using to describe it because they indicated that they are not for sale. Mr. Stup stated that Mr. Saini testified that the bottles were marked by signage that they were dummy bottles. Mr. May stated that Mr. Saini was referring to that sign and he assumed that it was clear that it is was a dummy bottle because it said for display only. Mr. Saini stated that they do their Christmas displays there with Santa.

Mr. Pippy stated that from what he sees, it is very difficult to prove. Mr. Pippy stated scientifically we know what is in the bottles, but we do not know who or when they were tampered with. Mr. Pippy feels the only thing he can prove is that the licensee had authentic bottles filled with water on the premises in a display area. Mr. Pippy stated that the inspectors don't typically go looking for trouble, usually it is a pattern and Mr. Saini is an owner of multiple locations and he has multiple violations at each of his locations. Mr. Pippy stated that

when Mr. Saini was applying for his last license all the violations were pulled up for each location and all of them had multiple violations over the years. Mr. Saini stated that Brunswick Liquors never had a violation and that Town Liquors' only violation was that the schedule was not posted on the counter but the counter had just been reversed. Mr. Saini stated that he has had Village Liquors for nine years and the only violation he has had was the Trader's License and the technical violation. Mr. Saini stated that when he opened up, he was only given 10 days to do so and Inspector DeLauter visited the establishment and they were not opened within the 10 days.

Mr. Pippy stated that it is difficult to prove that Mr. Saini purchased an alcoholic beverage from an unauthorized manufacturer and it is difficult to prove that Mr. Saini displayed an alcoholic beverage other than one from a license wholesaler. It is also difficult to prove that Mr. Saini tampered with those bottles based on the definition provided by Mrs. Thall, the fact that in order to test the product they had to pull fluid out of it, the fact that the Inspectors taking photographs the lighting could be changed, and the fact that the photographs from the Comptroller's Office were black and white. Mr. Pippy stated that he would vote to dismiss the three charges. Mr. Pippy stated that this is Mr. Saini's last warning and going forward all his ducks must be lined up in all of his establishments. If there are any questions or confusion, a call needs to be made to Mrs. Dean and she will tell you or she will ask the Board. Mrs. Hays stated that she would have to agree with Mr. Pippy. She is very suspicious of the whole thing and she is not very trusting but she doesn't think it can be proved.

Mrs. Thall stated that on the first charge the Board needs to make a finding as to whether the licensees (who are not the holders of a Class E, Class F or Class G license), either directly or through an employee, purchased any alcoholic beverage except from a duly licensed manufacturer, wholesaler or private bulk sale permit holder. Mr. Pippy voted not guilty, Mrs. Hays voted not guilty, and Mr. Stup voted not guilty. Mrs. Thall stated on the second charge the first finding the Board needs to make, is whether the licensees (who are not the holders of a Class E, Class F, or Class G license), either directly or through an employee, kept upon the licensed premises any alcoholic beverages except those purchased from a duly licensed manufacturer, wholesaler or private bulk sale permit holder. Mr. Pippy voted not guilty, Mrs. Hays voted not guilty, and Mr. Stup voted not guilty. Mrs. Thall stated that the second part of the finding is did the licensees possess at any place on the establishment any alcoholic beverage not permitted to be sold under the license. Mr. Pippy stated not guilty, Mrs. Hays voted not guilty, and Mr. Stup voted not guilty. Mrs. Thall stated on the third charge the finding the Board needs to make is whether the licensees tampered with or changed the quantity or quality of the contents of a container of an alcoholic beverage after the container had been lawfully sealed and while the contents remained in the container. Mr. Pippy voted not guilty, Mrs. Hays voted not guilty, and Mr. Stup stated not guilty. The next finding is whether the

licensee refilled a container of an alcoholic beverage with a substance after the container had been emptied of its original contents. Mr. Pippy voted not guilty, Mrs. Hays voted not guilty, and Mr. Stup voted not guilty. Mrs. Thall asked for a finding as to whether the licensees refilled a container of alcoholic beverage with a substance after the container had been emptied of its original contents. Mr. Pippy voted not guilty, Mrs. Hays voted not guilty, and Mr. Stup voted guilty. Mr. Stup stated to the licensees to take this as a warning.

7. Reconsideration:

RE: Michael Mercer, Jason Miller
and Christopher Parsell
for the use of The Wine Kitchen, LLC
t/a The Wine Kitchen
50 Carroll Creek Way, Suite 140
Frederick, Maryland 21701
**Class B, On Sale, Beer, Wine & Liquor
License #11BL 3420**

Mr. Pippy stated that he wanted to reconsider his vote regarding The Wine Kitchen.

MOTION: Mr. Pippy made a motion to reconsider the penalty for the Wine Kitchen Violation.

SECOND: Mrs. Hays seconded the motion

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Nay
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was: **Aye-2, Nays-1**
(Motion Passed)

MOTION: Mr. Pippy made a motion to replace the previous fine and administrative fee and replace that penalty with a \$400 fine and an administrative fee for \$100. The total amount due is \$500. A warning letter should be sent as well.

SECOND: Mrs. Hays seconded the motion

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Nay
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was: ***Aye-2, Nays-1***
(Motion Passed)

8. Dry Districts

Mr. Stup stated that the applications for the former dry districts have been distributed. When it came to light that applications weren't picked up in a timely manner, the Board should ask that applications be picked up within 30 days that the priority list is approved.

MOTION: Mr. Stup made a motion to require that the formerly dry district applications must be picked up within 30 days of the approval of the priority list, otherwise it will go to the applicant next on the list.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous: ***Aye-3, Nays-0***
(Motion Passed)

9. Minutes: Mr. Stup stated the newest sets of minutes are being worked on first and then the older sets will be worked on.

10. Public Comment: There was no public comment

11. Adjournment: The meeting was adjourned at 12:25pm

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Ashley Sklarew